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**PATENT APPLICATION****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q95345

Firmin GARCIA, et al.

National Stage of: PCT/FR2004/050719

Appln. No.: 10/583,255

Group Art Unit: 3754

Confirmation No.: 9112

Examiner: Not Yet Assigned

Filed: June 16, 2006

For: FLUID PRODUCT DISPENSER MEMBER AND DISPENSER COMPRISING ONE SUCH MEMBER

**Submission of English Translation of the International  
Preliminary Report on Patentability**

**MAIL STOP PCT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

For the Examiner's convenience, enclosed herewith is a copy of the English translation of the International Preliminary Report on Patentability for PCT/FR2004/050719. It is noted that the one (1) reference cited in the Report was previously submitted to the U.S. Patent and Trademark Office with an Information Disclosure Statement filed on June 16, 2006, and therefore is not enclosed herewith.

Respectfully submitted,

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WASHINGTON OFFICE  
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**PCT**

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PRÉLIMINAIRE INTERNATIONAL  
SUR LA BREVETABILITÉ (CHAPITRE I OU CHAPITRE II)  
DU TRAITE DE COOPERATION EN MATIERE DE BREVETS

(règles 44bis.3.c) et 72.2 du PCT)

Destinataire :

CAPRI  
33 rue de Naples  
F-75008 PARIS  
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Date d'expédition ( <i>jour/mois/année</i> ) 09 novembre 2006 (09.11.2006)	
Référence du dossier du déposant ou du mandataire VALS 795/2	<b>NOTIFICATION IMPORTANTE</b>
Demande internationale n° PCT/FR2004/050719	Date du dépôt international ( <i>jour/mois/année</i> ) 17 décembre 2004 (17.12.2004)
Déposant	VALOIS SAS etc

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Il appartient au déposant d'établir la traduction en question et de la remettre directement à chaque office élu intéressé dans le délai applicable (règle 74.1). Voir le volume II du *Guide du déposant du PCT* pour de plus amples renseignements.

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**TRANSLATION**    **PATENT COOPERATION TREATY**  
**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>VALS 795/2</b>	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. <b>PCT/FR2004/050719</b>	International filing date (day/month/year) <b>17.12.2004</b>	Priority date (day/month/year) <b>19.12.2003</b>
International Patent Classification (IPC) or national classification and IPC <b>B05B11/00, B05B15/00, B65D83/14, B65D47/34</b>		
Applicant <b>VALOIS SAS</b>		

<ol style="list-style-type: none"> <li>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</li> <li>2. This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.</li> <li>3. This report is also accompanied by ANNEXES, comprising: <ol style="list-style-type: none"> <li>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>2</u> sheets, as follows: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> </li> <li>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ol> </li> </ol>	
<ol style="list-style-type: none"> <li>4. This report contains indications relating to the following items: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the report</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input type="checkbox"/> Box No. VI Certain documents cited</li> <li><input type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul> </li> </ol>	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/050719

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language \_\_\_\_\_ which is the language of a translation furnished for the purposes of:

- international search (Rule 12.3 and 23.1(b))
- publication of the international application (Rule 12.4)
- international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished  
 the description:

pages 1-7 as originally filed/furnished

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the claims:

nos. \_\_\_\_\_ as originally filed/furnished

nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19  
07.10.2005 with letter  
of 06.10.2005

nos.\* 1-8 received by this Authority on \_\_\_\_\_

nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

the drawings:

sheets 1/3-3/3 as originally filed/furnished

sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3.  The amendments have resulted in the cancellation of:

the description, pages \_\_\_\_\_  
 the claims, nos. 9 \_\_\_\_\_  
 the drawings, sheets/figs \_\_\_\_\_  
 the sequence listing (*specify*): \_\_\_\_\_  
 any table(s) related to sequence listing (*specify*): \_\_\_\_\_

4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages \_\_\_\_\_  
 the claims, nos. \_\_\_\_\_  
 the drawings, sheets/figs \_\_\_\_\_  
 the sequence listing (*specify*): \_\_\_\_\_  
 any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/050719

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																									
<p><b>1. Statement</b></p> <table> <tr> <td>Novelty (N)</td> <td>Claims</td> <td>1-8</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> <tr> <td>Inventive step (IS)</td> <td>Claims</td> <td>1-8</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> <tr> <td>Industrial applicability (IA)</td> <td>Claims</td> <td>1-8</td> <td>YES</td> </tr> <tr> <td></td> <td>Claims</td> <td></td> <td>NO</td> </tr> </table>			Novelty (N)	Claims	1-8	YES		Claims		NO	Inventive step (IS)	Claims	1-8	YES		Claims		NO	Industrial applicability (IA)	Claims	1-8	YES		Claims		NO
Novelty (N)	Claims	1-8	YES																							
	Claims		NO																							
Inventive step (IS)	Claims	1-8	YES																							
	Claims		NO																							
Industrial applicability (IA)	Claims	1-8	YES																							
	Claims		NO																							
<p><b>2. Citations and explanations (Rule 70.7)</b></p> <ol style="list-style-type: none"> <li>1. Reference is made to the following document: D1: FR 2 832 134 A (VALOIS SA) 16 May 2003 (2003-05-16)</li> <li>2.1 D1, which is considered to be the prior art closest to the subject matter of claim 1, describes (the references between parentheses apply to said document): a fluid dispensing member (1) including: <ul style="list-style-type: none"> <li>- a body (10) defining an inlet passage (11);</li> <li>- an actuating rod (13) capable of moving within the body;</li> <li>- an actuating member (13) coupled to the actuating rod;</li> <li>- fastening means (17) for fastening the body (10) in an opening (20) of a container (2) containing fluid;</li> <li>- and an identification unit (3) for providing information relating to the dispensing member, said identification unit (3) being housed in a space defined between the body (10) and the fastening means (17).</li> </ul> Consequently, the subject matter of claim 1 differs from this known dispensing member in that:  said space forms a ring-shaped recess <u>delimited</u> (<i>i.e. precisely determined by limits that circumscribe the extent thereof</i>) by the body (10), a portion of the fastening means (17) and the neck seal. </li> </ol>																										

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.  
PCT/FR2004/050719

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

- 2.2 The subject matter of claim 1 is thus novel (PCT Article 33(2)), since the ring-shaped recess as seen in figure 3 of D1 (leaving aside the container neck, i.e. before the member is mounted on the container) is not delimited downward.
- 2.3 The problem that the present invention is intended to solve can be considered to be that of enabling a removable identification unit to be incorporated in a dispensing member intended to be mounted in a container neck having a diameter substantially equal to that of the pump, without a risk of said identification unit being damaged when mounted on the container.
- The solution to this problem, as proposed in claim 1 of the present application, is considered to involve an inventive step (PCT Article 33(3)) for the following reasons:
- the ring-shaped recess defined between the body (10), the fastening means and the neck seal (18) is such that the risk of the identification unit being crushed during assembly is avoided, while not impeding insertion into a neck of similar diameter to that of the pump, and said identification unit cannot be accessed without destroying the dispensing member.
- 2.4 Claims 2 to 7 are dependent on claim 1 and thus also comply, as such, with the PCT requirements of novelty and inventive step.
- 2.5 Claim 8 refers to an identification member according to claim 1 and therefore also complies with the PCT requirements of novelty and inventive step.